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APPLICATION NO:	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/066,238

01/30/2002

Mehmet Sayal

10010317-1

2777

7590 06/04/2008
HEWLETT-PACKARD COMPANY
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EXAMINER

GREIMEL, JOCELYN

ART UNIT

PAPER NUMBER

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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FROM DIRECTORS OFFICE

JUN 02 2008

TECHNOLOGY CENTER 3600

In re Application of:

Mehmet Sayal et al.

Application No. 10/066,238

Filed: January 30, 2002

Attorney Docket No.: 10010317-1

For: TRADING PARTNER CONVERSATION
MANAGEMENT METHOD AND SYSTEM

PETITION TO INVOKE
SUPERVISORY AUTHORITY
UNDER 37 C.F.R. 1.181

This is in response to applicants' petition filed on May 15, 2008 to have Affidavits submitted on January 14, 2008 accepted by the Office and accordingly have the Knauss reference removed as prior art.

The petition is **DENIED**.

Petitioner's arguments are directed to one main issue, that of whether due diligence was exercised from before Knauss' filing date on December 21, 2001 until the application was filed.

37 CFR 1.131(2)(b) states, "The showing of facts shall be such, in character and weight, as to establish reduction to practice prior to the effective date of the reference, or conception of the invention prior to the effective date of the reference coupled with due diligence from prior to said date to a subsequent reduction to practice or to the filing of the application."

MPEP 715 III states, "The date to be overcome under 37 CFR 1.131 is the effective date of the reference (i.e. the date on which the reference is available as prior art)."

MPEP 706.02 V states, "The effective filing date of a U.S. application may be determined as follows: . . . (D) If the application properly claims benefit under 35 U.S.C. 199(e) to a provisional application, the effective filing date is the filing date of the provisional application for any claims which are fully supported under the first paragraph of 35 U.S.C. 112 by the provisional application."

A review of the record shows that the patent to Knauss (U.S. Patent Number 7,043,687), relied upon by the Office in the rejection mailed March 19, 2008 claims benefit under 35 U.S.C. 119(e) to provisional application 60/257,982 filed December 27, 2000. Further, the Examiner pointed out this fact on page 3, lines 4-5 in the Non-Final rejection mailed March 19, 2008, "Additionally, the Examiner could rely upon and reference the Knauss provisional application filed 2 December 2000 (provisional application: 60/257,980)" Accordingly, Knauss has an effective filing date of December 27, 2000.

A further review of the record indicates that while Petitioner's evidence shows conception prior to the filing date of the Knauss reference (December 21, 2001), there is no evidence which shows conception prior to December 27, 2000, the effective filing date of Knauss. Accordingly, the Affidavit filed on January 14, 2008 is found to be insufficient to properly swear behind the Knauss reference and therefore this petition is **DENIED**.

Any questions concerning this decision should be directed to Supervisory Patent Examiner James Kramer at (571) 272-6783.

Summary: *Petition Denied*



Wynne Coggins, Director
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JAK/: 05/20/08

rc